



Final Decree Transition

Stakeholder Working Group Meeting Agenda

September 8, 2022, 9:00 AM to 3:00 PM
DNRC Headquarters – The Montana Room
Helena, MT
[Zoom Link](#)

Meeting Objectives:

- Solidify recommendations for a Water Division Court Model
 - Confirm areas of consensus
 - Determine areas of dissent with next steps
- Continue to explore ways to build understanding and find common ground
- Gather SWG input and guidance on priorities and next steps

9:00 AM	Welcome, Introductions, and Agenda Overview
9:15 AM	Election Process
9:45 AM	Solidify Recommendations for Water Division Court Model <ul style="list-style-type: none">• Review changes incorporating feedback from August meeting discussion• Solidify areas of consensus• Determine areas of dissent and next steps
10:30 AM	Break
Noon	Lunch
12:45 PM	Continuation – Solidify Recommendations for Water Division Court Model
2:00 PM	Public Comment (time subject to change)
2:15 PM	Water Distribution and Disputes – Framing Question #3 <ul style="list-style-type: none">• Determine who from this working group wants to participate in this sub working group now through December – see framing questions below as a reminder of what this group will be addressing.

2:45 PM

Next Steps

- Water Complaints and Enforcement - Framing Question #4 – After 2023 Legislative Session

3:00 PM

Adjourn

Divisional Water Court/Judge Framework

FRAMING QUESTIONS

FRAMING QUESTION #1: FINAL DECREES

1. What is the best way for adjudicated pre-1973 rights and new permits and changes (both as certificates of water rights) to be cohesively administered?
2. Are the current statutes and rules adequate to meet that vision?
 - a. Are the current statutory provisions for corrections of mistakes and errors in final decrees adequate?
 - b. What notification process should be used?

FRAMING QUESTION #2: ROLE OF THE JUDICIARY

1. Are there concerns with the current post-final decree system of judicial administration of water rights? If so:
 - a. Identify concern(s);
 - b. Identify the current statutory and regulatory frameworks and tools available to address those concern(s);
 - c. Identify any additional tools or resources needed to address those concern(s);
 - d. Identify potential statutory, regulatory, and policy solutions; and,
 - e. Evaluate pros and cons of potential solutions.
2. Additional considerations for any potential statutory, regulatory, and policy solutions developed (e.g., overlapping jurisdictions, appointment of judges)?

FRAMING QUESTION #3: WATER DISTRIBUTION AND DISPUTES

1. How should final decree and post-1973 appropriated water be distributed?
 - a. Are additional rules, statutes and authority needed to better manage and distribute water?
2. What is the role of water commissioners? Should every basin have a water commissioner?
3. Who is responsible for water commissioner management and supervision?
 - a. To whom should water commissioners report (District Court/Agency/Other)?
 - b. How should Water commissioners be hired, trained, and managed?
 - c. How are water commissioners represented in dissatisfied water user complaints?
4. Is the current structure to train, support, and fund water commissioners adequate?
5. What additional tools are needed to support water commissioners?
6. How are water commissioners' records maintained and standardized?
 - a. Should water records be standardized?
 - b. How should they be standardized?
 - c. Who should be responsible for maintaining water commissioners' records?
 - d. Should yearly water commissioners' records be maintained locally, centrally, or both?
 - e. Should records be digitized and added to individual water right records?

7. What is the relationship between water commissioners and the District Courts? Is there a need to improve consistency?

FRAMING QUESTION #4: WATER COMPLAINTS AND ENFORCEMENT

1. In what circumstances do stakeholders want water enforcement? Are there certain times of the year or locations where enforcement is more efficient and beneficial?
2. Are there additional statutory or administrative remedies needed to enforce water rights?
3. Are there additional judicial remedies needed to enforce water rights?
4. Are there sufficient mechanisms to allow water users to enforce against other water users for “illegal” water use?
5. What role, if any, should water measurement and reporting serve in enforcement?